



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/372,898	08/12/1999	SAM JOHNSON	09001.1000	1964

7590 02/25/2005

LAVA Group Law by Smith and Frohwein  
P O Box 88148  
Atlanta, GA 30346

EXAMINER

TODD, GREGORY G

ART UNIT

PAPER NUMBER

2157

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/372,898	JOHNSON ET AL.
	Examiner Gregory G Todd	Art Unit 2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 01 November 2004.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,6,33,45,56 and 93-104 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1,6,33,45,56 and 93-104 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Response to Amendment***

1. This is a fourth office action in response to applicant's amendment filed, 06 October 2004, of application filed, with the above serial number, on 12 August 1999 in which claims 1, 45, 94, and 100 have been amended. Claims 1, 6, 33, 45, 56, and 93-104 are therefore pending in the application.

It is noted Applicant faxed the Examiner a preliminary amendment 01 November 2004 for the Examiner to review and find acceptable. However, Applicant has not formally filed these amendments with the Office and as such, the Office will reply with respect to 06 October 2004 amendments.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 33, 45, 56, and 101-104 are rejected under 35 U.S.C. 102(b) as being anticipated by Logan et al (hereinafter "Logan", 5,732,216).

As per Claim 33, Logan discloses a method for providing directed information, including advertising and non-advertising content, to a playback device based on a closed loop operation, wherein Logan discloses:

receiving user information (subscriber preferences / demographics) (at least col. 5, lines 33-45);

obtaining directed information from one or more information sources based at least in part on the user information (at least col. 7, lines 16-25);

formatting the directed information into a content package, the content package including one or more content segments (ordering segment sequencing) (at least col. 7, lines 35-40; col. 7, line 50 - col. 8 line 8);

assigning a unique identifier to each content segment within the content package (ProgramID) (at least Fig. 5; col. 7, lines 30-34);

delivering the content package along with the unique identifier for each content segment of the content package to the playback device (downloading files) (at least col. 7, lines 20-30); and

receiving response information from the playback device, the response information including the unique identifier of a previously delivered content segment that is associated with the response (program segments desired by subscriber upload and response associated with playing of segment) (at least col. 6, lines 9-26; col. 17, lines 42-61).

As per Claim 45, Logan discloses a mobile application server comprising:

a website accessible to a user for inputting user information comprising a user name, profile information, preference information, and scheduling information (HTML forms for account initialization) (at least col. 9, lines 5-41);

a user database for storing the user information (at least col. 5, lines 32-45); and

a server application for retrieving the preference information (subscriber preferences / demographics) (at least col. 5, lines 33-45), retrieving web content from a content source (at least col. 7, lines 16-25), creating information content segments for the user based at least in part on the preference information and the web content (compiling files) (at least col. 7, lines 15-20), creating a content package (selections file along with segments) (at least col. 11, lines 21-25), and delivering the content package to a playback device (downloading files) (at least col. 7, lines 20-30), said server application further functional to receive response information associated with a particular portion of a previously downloaded segment from the playback device and initiate an action based on the response information (program segments desired by subscriber upload and response associated with playing of segment) (at least col. 6, lines 9-26; col. 17, lines 42-61).

As per Claim 56, Logan discloses a method of delivering content and receiving responses pertaining to the content, wherein the playback device includes a user interface that can be actuated by a user, wherein Logan discloses:

aggregating a content package, the content package including at least one content segment (selections file along with segments) (at least col. 11, lines 21-25);  
delivering the content package to a playback device (downloading files) (at least col. 7, lines 20-30);

receiving a response from the playback device, the response being associated with a particular content segment by the user actuating the user interface during the playback of a particular portion of the content segment (program segments desired by

subscriber upload and response associated with playing of segment) (at least col. 6, lines 9-26; col. 17, lines 42-61); and

initiating actions based on the particular portion of the content segment with which the responses is associated (processing for download compilation) (at least col. 6, lines 9-26).

As per Claim 101.

wherein the response information is associated with the particular portion of the content segment by including a time-stamp (date and timestamp of response) (at least col. 43, lines 5-15).

As per Claim 102.

wherein the response information is associated with the particular portion of the content segment by including a time-stamp, and if the time-stamp indicates a first sub-segment of the content segment, a purchase transaction is initiated and if the time-stamp indicates a second sub-segment of the content segment, a different action is taken (at least col. 43, lines 5-15; col. 10 line 54 - col. 11 line 3; col. 22, lines 10-20).

As per Claim 103.

wherein the response information is associated with the particular portion of the content segment by including a time-stamp, and if the time-stamp indicates a first sub-segment of the content segment, the user is placed on a mailing list and if the time-stamp indicates a second sub-segment of the content segment, a different action is taken (emailing comment according to timestamp) (at least col. 41 line 59 - col. 43 line 15; col. 10 line 54 - col. 11 line 3; col. 22, lines 10-20).

As per Claim 104.

wherein the response information is associated with the particular portion of the content segment by including a time-stamp, and if the time-stamp indicates a first sub-segment of the content segment, the information will be sent to the user and if the time-stamp indicates a second sub-segment of the content segment, a different action is taken (at least col. 43, lines 5-15; col. 10 line 54 - col. 11 line 3; col. 22, lines 10-20).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 6, and 93-100 are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan et al (hereinafter "Logan", 5,732,216) in view of Kikinis (hereinafter "Kikinis", 6,055,566).

As per Claim 1, Logan discloses a closed loop system for delivering information obtained from an information content source to a playback device, wherein Logan discloses:

a mobile-content server comprising:

a website interconnected to the information content source, operating on the mobile-content server and available for access by a user (HTML forms for account initialization) (at least col. 9, lines 5-41);

a database for storing, among other things, user information (at least col. 5, lines 32-45); and

a server application operating on the mobile-content server and enabling the mobile-content server to:

retrieve the user information from the database (subscriber preferences / demographics) (at least col. 5, lines 33-45);

obtain content segments from the information content source (data source) (at least col. 7, lines 16-25; col. 35, lines 64-67);

create a content package including at least one content segment (selections file along with segments) (at least col. 11, lines 21-25);

deliver the content package to a client platform (downloading files) (at least col. 7, lines 20-30); and

receive response information from the client platform, the response information being associated with only a portion of a previously delivered content segment (program segments desired by subscriber upload and response associated with playing of segment) (at least col. 6, lines 9-26; col. 17, lines 42-61).

the client platform comprising:

a web browser for interacting with the website operating on the mobile-content server (at least col. 9, lines 6-10); and

a client application operating on the client platform and enabling the client platform to:

download the content package from the mobile-content server to the playback device (downloading files) (at least col. 7, lines 20-30);

receive response information initiated by a user of the playback device, the response information identifying a requested action and the requested action based on the portion of a currently active segment with which the response information is associated (program segments desired by subscriber upload according to serialized current program and user-recorded comments) (at least col. 6, lines 9-26; col. 18, lines 54-67; col. 17, lines 43-60); and

deliver the response information to the mobile-content server (uploading program selections) (at least col. 4, lines 26-37).

Logan does not disclose the structural relationship of a playback device being connected to a client platform, which is then connected to the server. However, the use and advantages for using such a structure is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Kikinis. Kikinis discloses a playback device that can be disconnected from a PC client, the client acting as a middleman between the playback device and the server (at least col. 2 line 66 - col. 3 line 17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of having a portable device for use

of playing back as this would offer mobility to a user when a user cannot be stationary, as Logan suggests mobile use (at least col. 6, lines 52-61).

As per Claim 6.

wherein the server application assigns a unique identifier to each content segment and maintains a database of unique identifiers and associated content segments and further partitions each content segment into one or more sub-segments (ProgramID) (at least Fig. 5; col. 7, lines 30-34).

As per Claim 93.

wherein the response information includes a response type (eg. public or private comments) (at least col. 17, lines 55-61).

As per Claim 94.

wherein the server application operating on the mobile-content server further enables the mobile-content server to perform a particular action associated with the received response (user recorded comments being public or private or host-only) (at least col. 17, lines 55-61).

As per Claim 95.

wherein the particular action is selected from a plurality of possible actions based on the particular portion of the content segment with which the response is associated (public, private, host) (at least col. 17, lines 55-61).

As per Claim 96.

wherein the particular action is selected from a plurality of possible actions based on the position in time in which the particular portion is situated within the content

segment (downloading of next installment in a serialized playlist from a specific time (episode 3) (at least col. 18 line 43 - col. 19 line 20).

As per Claim 97.

wherein a response information associated with a particular portion of the content segment indicates a request for further information regarding the content segment (next episode of a plurality of serial episodes) (at least col. 18, line 43 - col. 19 line 20).

As per Claim 98.

wherein a response information associated with a particular portion of the content segment indicates a request to initiate a purchase transaction (subscriber payments for segments) (at least col. 10 line 54 - col. 11 line 3; col. 22, lines 10-20).

As per Claim 99.

wherein the response information is associated with the particular portion of the content segment based on when a response button is activated by a user (eg, selecting a link) (at least col. 42, lines 28-47).

As per Claim 100.

wherein the response information includes a content segment identifier and a time-stamp, the time-stamp indicating a relative portion of the content segment (at least col. 43, lines 5-15).

***Response to Arguments***

6. Applicant's arguments filed 06 October 2004 have been fully considered but they are not persuasive.

Applicants argue Logan does not teach response information identifying a previously delivered content segment. However, Logan clearly teaches user-given comments associated with a program segment that has been previously delivered and reviewed by the user (see col. 19, lines 23-42). Logan also teaches serialized programming wherein a user, upon reviewing a segment is presented with a hyperlink portion of the segment, which the user may access the hyperlink, and respond in doing so, for the next segment of the serialized program (see col. 18 line 43 - col. 19 line 20).

Applicants argue Logan does not teach or suggest receiving response information from a playback device including a unique identifier of a particular portion of a content segment. Similarly to above, Logan clearly teaches user-given comments associated with a particular portion of program segment (see col. 19, lines 23-42). Logan also teaches serialized programming wherein a user, upon reviewing a segment of multiple segments is presented with a hyperlink *portion* of the segment, which the user may access the hyperlink, and respond in doing so, for the next segment of the serialized program (see col. 18 line 43 - col. 19 line 20). Further, Logan teaches responding to a program segment, of which the user can respond to the segment (portion of the segment) with a comment or hyperlink fashion response.

Applicants argue Logan does not teach initiating actions based on a particular portion of a content segment. Similarly to above, Logan teaches serialized programming

wherein a user, upon reviewing a segment of multiple segments is presented with a hyperlink *portion* of the segment, which the user may access the hyperlink, and respond in doing so, for the next segment of the serialized program (see col. 18 line 43 - col. 19 line 20). Thus, such initiating action being downloading the next portion of a serialized portion of segments.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Previously cited Kokhab, Morrison, Towell et al, Wegener et al, Abecassis, Reilly et al, Hidary (cell phone advertising), Owensby (location-based targeted advertising), Lederman (phone advertising), Thomas (demographic customization with advertising),

Tjaden (personalized audio delivery / text-speech), Wynblatt et al (targeted advertising to mobile terminal), Story et al (playback device listening to different segment types), Goldhaber et al (ad response benefits), Mott et al (playback device authentication), Park (PDA-server communications), Ohkubo et al (information associating for searches), Hoyle (computer targeted advertising), and Katz et al (mobile playback device with libraries of data, no advertising) are cited for disclosing pertinent information related to the claimed invention. Applicants are requested to consider the prior art reference for relevant teachings when responding to this office action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory G Todd whose telephone number is (571)272-4011. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm w/ first Fridays off.

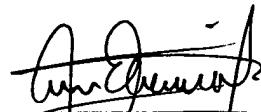
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571)272-4001. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory Todd 

Patent Examiner

Technology Center 2100

  
ARIANE ETIENNE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100